Supreme Court U.S.
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No.

IN THE
SUPREME COURT OF THE UNITED STATES

ARIC W HALL,
Petitioner

v.

CIVIL AIR PATROL, INC., ET AL,
Respondents

On Petition for Writ of Certiorari
to the United States Court of Appeals for the Fifth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. Does the petitioner have a right to a trial?
2. Does the petitioner have a remedy for violations of his First Amendment freedom of petition?
3. Is the petitioner entitled to a permanent injunction and writ of mandamus to compel government to abide by its policies and reverse those policies that constitute an act of war upon the Constitution?
4. Does the petitioner have a right to default judgments against defendants who choose not to appear?

LIST OF ALL PARTIES

CIVIL AIR PATROL, INC.
U. S. AIR FORCE
U. S. DEPARTMENT OF DEFENSE

ALBERT ALLENBACK
RODNEY AMMONS
DONALD ANGEL
M ALLEN APPLEBAUM
ARP STATE BANK
BRUCE P BAUGHMAN
FREDERICK BELDEN
DENNIS H BENNETT
PAUL BERGMAN
MARY BERKOWITZ
ROBERT BESS
GARY BLEVINS
ROBERT M BOST
ERNEST BOURGEOIS
RICHARD BOWLING
GEORGE BOYD
ROGER BRADY
WILLIAM BROCKMAN
DAVID C BROOKS
ROBERT BROUILLETTE
CARL L BROWN
VALERIE M BROWN
FRANK BUETHE
ROGER W BURG
JAY BURRELL
JOHN BUSCHMANN
GEORGE W BUSH
RICHARD BUTLER
JACK BUTTERFIELD
CHARLES L CARR
JOE CASLER
WILLIAM CHARLES
TED CHAVEZ
RUSSELL E CHAZELL
REGGIE CHITWOOD
ANN B CLARK
DAVID CLARY
MR. COLLIE (Minor)
MR. COLLIE (Father)
MRS. COLLIE (Mother)
AUGUSTINE COMELLA
DONALD G COOK
GREGORY CORTUM
TIMOTHY CRAMER
JANE E DAVIES
STEVE DAVISON
GILBERT DAY
JOHN DEAN
DION DECAMP
ROBERT DIDUCH
MICHAEL L DOMINGUEZ
MARY DONLEY
STEVE R DOSS
FRANK F ELDRIDGE

COLIN FAKE
STANLEY FERNANDEZ
JAMES E FLETCHER
CORNELIUS FLYNN
PETE GEREN
MAURICE GIVENS
REX GLASGOW
CHARLES GLASS
AUSTYN GRANVILLE
GEORGE GRAVES
CHARLES GREENE
RICHARD GREENHUT
CHARLES GREENWOOD
PHILLIP GROSHONG
RAYMOND HARRIS
HENRY L HEABERLIN
RUSSELL HODGKINS
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LORETTA HOLBROOK
JOHN D HOPPER JR
SAUL HYMAN
GARY JACKSON
JOSEPH C JENSEN
MARK D JOHNSON
CLAIR JOWETT
JOHN P JUMPER
LARRY KAUFFMAN
NICHOLAS B KEHOE
VIRGINIA KELLER
RONALD E KEYS
BERNARD F KING
STEVEN KUDDES
THEODORE S KYLE
DONALD LAMONTAGNE
STAN LEIBOWITZ
HERMAN LIBOY
WILLIAM R LOONEY III
STEPHEN LORENZ
BRADY T MARKING
JOSEPH J MARTIN
GARY MAYO
ROBERT J MCCABE
FRANKLIN MCCONNELL
JOSEPH MEIGHAN JR
JAMES MELANCON
RICHARD MENTEMEYER
STEVEN G MILLER
RODNEY MOODY
WILLIAM R MORTON JR.
RICHARD L MOSELEY
T MICHAEL MOSELEY
TOM MUNDT
MICHAEL MURRELL
LARRY MYRICK
DAVID NEEL
VIRGINIA NELSON
DAVID R NICHOLSON
JAMES NORVELL
RUSSELL OPLAND
J ROCK PALERMO
JAMES PALMER
HAL PARKER
KAREN PAYNE
BOBBY PICKER
ANTONIO J PINEDA
RICHARD PROBST

LARRY J RAGLAND
JOHN F REGNI
SCOTT RICHARDS
LYNDA ROBINSON
JAMES ROCHE
JAMES ROWELL
DON ROWLAND
DONALD RUMSFELD
JAMES RUSHING
MARGIE SAMBOLD
MITCHELL SAMMONS
STEVEN J SAMPLE
HAROLD SCHAFFER
HENRY SCHLATTNER
ERNESTUS SCHNABLER
GEORGE SCISS
CHARLES SEAROCK
NORMAN R SEIP
STEVEN SENDERLING
MATTHEW SHARKEY
CHARLES E SHARP
WARDER SHIRES
ANDREW SKIBA
BRYAN SMITH
JOE R SMITH
RUSSELL SMITH
MERLE V STARR
ROY STEPHENSON
JEFFREY STICKEL
JOHN TILTON
ROBERT K TODD
TOM TODD
MILTON TOMASSINI
RALPH TOMLINSON
SCOTT TREPINSKI
LAWRENCE TRICK
JAN VAN HOVEN
JOHN VARLJEN
JOSEPH VAZQUEZ
ANTHONY VESELLA JR
GEORGE VOGT
WALTER VOLLMERS
MATTHEW WALLACE
KATHRYN J WALLING
DICKIE WARREN
WILLIAM WEBB
FREDRIC WEISS
NORMA WENDT
DWIGHT H WHELESS
BRUCE WHITMAN
JOHN B WILKES
CARL R WILLERT

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28 U.S.C. § 1346(a)(2)	1
	2
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CITATIONS OF OFFICIAL ORDERS

The order of the 5th Circuit (Appendix A) affirmed the order of the District Court (Appendix B), affirming the magistrate's R&R (Appendix C). None were published.

JURISDICTION

This is an appeal from the 5th Circuit Court of Appeals (No. 06-40461). The case was appealed from the U. S. District Court, Eastern District of Texas (No. 6:05cv193). The 5th Circuit affirmed dismissal of the petitioner's case on July 26, 2006. The U. S. Supreme Court has the discretion of certiorari on appeals from the circuit courts (28 U.S.C. § 1254).

BASIS OF JURISDICTION OF THE COURT OF FIRST INSTANCE

The U. S. District Court was the court of competent jurisdiction. The defendant U. S. Air Force (hereinafter "USAF"), its actors, and its co-conspirators within Civil Air Patrol (hereinafter "CAP"), through policy and written confessions, denied petitioner the freedom of speech and petition (28 U.S.C. § 1331). CAP, USAF, and their actors who are defendants, conspired to violate the civil rights of the petitioner (28 U.S.C. § 1343 [a][1-2]). The privileges and conditions of membership in CAP are established by corporate policy, protected by the organizational constitution and bylaws, and further protected by law (36 U.S.C. § 40303[a]), giving rise to another federal issue (28 U.S.C. §1331 and § 1346[a][2]). CAP receives most of its funding from appropriated funds, thus subjecting the organization to federal jurisdiction (28 U.S.C. § 1349). Respondent USAF is a defendant for breach of implied contract, exclusive of any tort claim, thus being further subject to federal jurisdiction

(28 U.S.C. § 1346 [a][2]). Only the federal district court may assert the power of mandamus, as sought by the petitioner, to force the USAF and its actors to comply with relevant laws, regulations, and agreements concerning petitioner and CAP (28 U.S.C. § 1361). It is also possible to further satisfy federal jurisdiction under the Class Action Fairness Act of 2005.

The U. S. District Court for the Eastern District of Texas was also proper venue. Petitioner resides here, the bulk of the torts or other violations were committed against petitioner here, several of the respondents reside here, and CAP has national citizenship and an established presence here.

This Court's own rules (Rule 10) indicate that the Court will give greater consideration for certiorari where the lower courts have so far departed from the law and standards of judicial proceedings to warrant intervention by this Court. In this case, five federal judges have openly fabricated lies to justify denying a trial. All five judges have been charged as accessories to felony theft for denying the petitioner a remedy for the same. All five judges have been charged with felony Conspiracy Against Rights (18 U.S.C. § 241) for conspiring with the government-actor defendants in denying the petitioner a remedy for the violation of his Freedom of Petition (U.S.C. Const. Amend. I), and all five judges have been charged with interfering with federally protected activities (18 U.S.C. § 245[b][1][B&E]). For the lower courts to deny a trial on the action for fraud is to license the USAF and CAP to continue stealing several million dollars per year through fraud.

CONSTITUTIONAL & STATUTORY CITATIONS

Pursuant to S.Ct. Rule 14.1(f), this is a restatement of the references to law that are listed in the Table of Cited Authorities and referenced within this document.

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10 U.S.C. § 9447	9
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18 U.S.C. § 4	8
18 U.S.C. § 241	2
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18 U.S.C. § 245 (b)(1)(B&E)	2
28 U.S.C. § 1254	1
28 U.S.C. § 1331	1
28 U.S.C. § 1343(a)(1-2)	1
28 U.S.C. § 1346(a)(2)	1
	2
28 U.S.C. § 1349	1
28 U.S.C. § 1361	2
36 U.S.C. § 40303(a)	1
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Verbatim references are found in Appendix D.

STATEMENT OF THE CASE

Petitioner filed a lawsuit in U. S. District Court, Eastern District of Texas, June 1, 2005, alleging numerous causes of action against numerous defendants. The trial court dismissed the case, stating that the petitioner failed to provide a legal theory for his claim of monetary damages against the United States. The petitioner appealed to the 5th Circuit Court of Appeals. Likewise, the appellate court affirmed, July 26, 2006, stating that the petitioner failed to state a legal theory to support his claim of monetary damages against the United States. The petitioner has been denied a trial of right and denied all of the rights and remedies afforded by law and pled in the causes of action of the Complaint. The petitioner is still being denied the freedom of petition, the right to own private property, and the right to trial by jury.

ARGUMENT #1

The judicial proceedings in this case have been a competition between the defense lawyers and the judges to see who can tell the most lies. The magistrate judge told 27 lies and errors in her Report and Recommendation (trial doc. # 224), where she recommended dismissal. The petitioner lists these lies in his response (trial doc. # 229; Appellant's Record Excerpts, doc. # 17). Government lawyers lied to deceive the court on official capacity defendants, when there were none (trial doc. # 221-1). Civil Air Patrol's lawyers lied to the court in stating that the petitioner threatened to murder the defendants and that this was a reason for termination of petitioner (trial doc. # 15, pg. 6), which led to the apparent firing of one of those lawyers. The petitioner responded to such allegations on another occasion (trial doc. #204, pg. 4).

All five judges have stated and restated a lie that the petitioner sought monetary damages against the United States and failed to set forth a legal basis for doing so (5th Cir. Opinion, see p. 15). At no point has the petitioner ever sought monetary damages against the United States, and there is no legal theory for doing so in an intentional tort case. All five judges lied to conspire with the defendants to commit all of the crimes that this action was intended to be a civil remedy against. All five judges have been charged with felony theft of money, felony theft of property, felony conspiracy against rights, felony retaliation, felony organized crime, and for theft in awarding a judgment of costs against the petitioner. Having refused to allow the petitioner the legal rights and remedies afforded to him by law and as pled in the causes of action of the Complaint, each judge became a willing accomplice to the defendants' crimes, which this action was intended to remedy. The judges denied the petitioner a trial on the basis of the judges' own lies.

The judges also state that the petitioner filed an unintelligible complaint, and that the petitioner failed to state a cause of action upon which relief could be granted. Upon

the magistrate judge ordering an amended complaint to provide time, place, and person details, the judges then complained that the Complaint became too cumbersome. The fact remains that the petitioner has responded to every lie, deception, or legitimate request for clarification made by every defense lawyer. Any lack of clarity that did exist was rectified in subsequent court filings. No amended complaint was ever ordered to consolidate or account for issues raised by the defense lawyers.

Petitioner cited numerous lies by opposing counsel in his reply brief (Appellant's Brief, pg. 3, *et seq*). The same was true in pre-trial documents before the trial court. Just because lawyers and judges confuse the court with lies does not make the Complaint or motions unintelligible.

A *pro se* litigant's claim should only be dismissed if it appears beyond doubt that he can prove no set of facts in support of his claim that would entitle him to relief (*Barksdale v. King*, 699 F.2d 744, 746 [5th Cir. 1983]).

In *Buerger v. Southwestern Bell Tel. Co.*, 982 F.Supp. 1247 (E. D. Tex. 1997), the Court stated that motions to dismiss for failure to state a claim are viewed with disfavor and rarely granted. The Court further stated that a complaint should not be dismissed unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claims that would entitle him to relief. The Court went on to opine on the statement that the pleader is entitled to relief (Fed. R. Civ. P. Rule 8). Citing other cases, the Court stated that the short, plain statement need not be hypertechnical, but need only set out a generalized statement.

In *Haines v. Kerner*, 404 U.S. 519 (1972), the U. S. Supreme Court reversed and remanded a dismissal because the lower courts denied the appellant an opportunity for a trial to prove the facts and allegations. *Haines* is the case on point, as the petitioner seeks a trial to prove facts and allegations. Petitioner takes the liberty of citing the above cases supporting his position that were previously and

erroneously cited by Judge Guthrie and the United States against petitioner.

The 5th Circuit affirmed that the petitioner has no right to a trial or trial by jury (U.S.C. Const. Amend. VII).

ARGUMENT #2

It should be acceptable by judicial notice that a citizen can petition the Court for equitable relief in response to violations of his Constitutional and civil rights by agents of government as pled (2nd Amended Complaint, pg. 9 *et seq*). The petitioner also has a right to file suit for damages resulting from a conspiracy against rights (42 U.S.C. §§ 1985-1986) as was pled (2nd Amended Complaint, pg. 11).

Petitioner sought relief in the Complaint and in the Motion for Writ to Declassify the Phonebook (trial doc. # 189), to enable himself and any other citizen to have access to contact information for military personnel in a position of authority. Neither petitioner, the informants of the Abu Ghraib scandal, nor the informants of any other act of crime, corruption, or tort committed within the military has the ability to contact a person in authority. Petitioner has found it most difficult to report crimes, torts, or violations of regulation against any military personnel, because he is not allowed to know where they are. Petitioner has further found it difficult to serve the military defendants, at the Pentagon or elsewhere, because he has to deduce as to where the individuals might work. This is a violation of the freedom of petition (U.S.C. Const. Amend I), it is a felony (18 U.S.C. § 241), it serves to protect crime and corruption in the military, and it ensures that no person in any command position can be held responsible. Whether a lieutenant or a four-star general, individuals in a position of responsibility can always say "I didn't know", as such individuals are protected from contact from the people. There is no motivation for the offending commanders to stop the crimes, torts, or other infractions

being committed under their command or being committed with the commander's blessing. By barring contact with government officials, while at the same time requiring the People to report crimes to military authorities, the People are subject to prosecution for misprison of felony for failing to report felonies to appropriate military authorities (18 U.S.C. § 4), thus constituting entrapment. Under the First Amendment, whether by injunction, writ of mandamus, or other final order of the Court, it is unavoidable that the Court must force the government to allow contact with itself from the People. The judges denied the motion to declassify the phonebook (trial docs. # 193 & 227). Any other avenue for granting contact with government was denied upon dismissal of the case.

The 5th Circuit affirmed that the petitioner has no right to a remedy for civil rights violations or to be free from felony crimes by government officials in retaliation for his exercise of the freedom of petition.

ARGUMENT #3

It is within the Court's discretion to grant or deny motions for injunctions. However, whether by motion for injunction, motion for writ of mandamus, or by final order at the conclusion of trial, the Court must issue a writ of mandamus compelling government actors to fulfill their duties and to comply with the law.

Conspiracy Against Rights and a request for equitable relief for civil rights violations was pled in some manner in the complaint (trial doc. # 133, pg. 9-12; 42 U.S.C. §§ 1985 and 1986). Petitioner stated that he was retaliated against for contacting and promising to contact regulatory bodies, elected officials, and the police, in violation of the Freedom of Petition (U.S.C. Const. Amend. I). Petitioner further stated that he had been denied contact information for military officials, which was needed to report crime, to seek

corrective action based on the authority of those individuals, and to serve process. The defendants have maintained, enforced, and defended their policy of terminating and defrauding anyone who contacts government (2nd Amended Complaint, Appendix I, citing CAPR 123-2 [Sep. 1999 version], par. 4d; and CAPR 123-2 [May 2003 version], par. 6e) Both the Air Force and Civil Air Patrol carried out at least the termination of the petitioner and one Mr. Steven Douglas Hays for contacting elected and regulatory government officials. The petitioner and the bulk of the defendants are in possession of the written confession and of the nationally published confession. The long list of defendants reviewed and upheld the terminations at their board meetings, per policy. It is a felony (18 U.S.C. § 241) and it is a cause of action (42 U.S.C. §§ 1985 and 1986) for which the petitioner was denied a trial and a remedy. The Board of Governors (hereinafter "BoG") has absolute authority and is under 50% control of the Secretary of the USAF (2nd Amended Complaint, Appendix I, citing 10 USC § 9447; 36 U.S.C. § 40303[b]; AFPD 10-27, par. 9.8; and AFI 10-2702, par. 4). The USAF approves of all CAP policies (2nd Amended Complaint, Appendix I, citing SoW par. 11.2; and AFI 10-2701, par. 1.4.4 and par. 1.9.4). The USAF controls the CAP through its CAP-USAF Commander (AFPD 10-27 par. 9.6). The USAF reserves the right to regulate corporate CAP activities at its pleasure (AFI 10-2701, Attch #1, A1.2.6). With these considerations, the civil rights violations are both a corporate and government action (*Grant v. Civil Air Patrol*, No. 91-45-B, [D. NH 1995]).

Petitioner filed a Motion for Writ of Mandamus and Preliminary Injunction against the USAF (trial doc. # 203). In the interest of expediency, the petitioner refers the Court to that document and to Appendix I of the 2nd Amended Complaint. In addition to the government control established in the preceding paragraph, there are additional considerations. The USAF officials on the BoG and one member from CAP-USAF had to approve of petitioner's

felonious termination (§ 9447; AFI 10-2702, par. 2.6). The Secretary of the USAF, with the approval of the Secretary of Defense, must write USAF regulations to administer the federal statutes (10 U.S.C. § 9448). Per the CAP-USAF Statement of Work, the USAF must suspend funding and mission status to CAP in the case of fraud or criminal activity (SoW par. 2.3.1.1.), but has refused. The USAF has the authority to suspend appropriated funds (SoW par. 5.4.3). Three USAF actors, including an Inspector General (hereinafter "IG") at CAP-USAF have sent letters to petitioner, claiming they have no authority or responsibility in the matters brought to light by petitioner. In fact, the IG has no other purpose. The USAF officials on the BoG have authority over the IG system (SoW par. 7.1; AFI 10-2702, par. 2.5), which means the USAF approves of CAP's ongoing refusal to provide petitioner with the findings of the IG investigation as required and agreed. Petitioner knows that CAP cannot provide those findings because the findings are a confession to fraud and theft by CAP personnel. The USAF is supposed to require a complaints and whistleblower protection program to protect petitioner (SoW par. 7.1.2 and par. 7.1.2.1), which they have not done. The USAF and its personnel have repeatedly rebelled against federal law, USAF regulations, and the agreement between USAF and CAP. Denying responsibility and refusing to stop the crime and tort of fraud benefits the USAF, as it saves the USAF millions of dollars annually on missions the CAP performs on behalf of USAF. It is still the prerogative of the Court to protect petitioner and to issue the necessary orders to enforce laws, regulations, and agreements. The motion was denied upon dismissal of the case (trial docs. # 232 and # 233).

In denying a trial, the 5th Circuit affirmed that government may continue enforcing its written policy of retaliating against and stealing money from anyone who contacts their elected officials and regulatory officials. The 5th Circuit also gave license the USAF to continue violating a litany of its own regulatory law.

ARGUMENT #4

Petitioner filed for default judgments against two groups of defendants (Motion for Default Judgment, trial doc. # 215). Counsel for the United States stated on multiple occasions that they were not representing the individual government-actor defendants (trial docs. # 199, 210, & 211), and petitioner responded to this problem at least once (trial doc. # 206) prior to filing for default judgments. These individuals were only being sued in their personal capacity, as they were being sued for intentional torts and punitive damages. As such, they filed no Answer nor made other contact with the court. These individuals are identified on page 2 of the motion.

The second group of defendants is those individuals who refused, ignored, rejected, or opened and then returned their summons and complaint. These individuals are listed on page 3 and 4 of the motion (Motion for Default Judgment, trial doc. # 215). It is the petitioner's position that such defendants could not possibly have hired or acknowledged an attorney if they did not know what cause or controversy the attorney was to be hired for. Likewise, how can an attorney for CAP claim to represent someone who has not solicited representation or be allowed to represent all clients who simply do not refuse the representation?

To further complicate the issue, some of these defendants serve in dual or *ex officio* roles, while in one position. Such individuals can be represented by the government, the corporate-hired lawyer, or some other lawyer. Upon Answers being filed by counsel, such dual capacity defendants will have filed two conflicting answers. Which one is the Court going to accept?

In a real flabbergasting moment, Judge Guthrie stated that petitioner had no right to know who is representing who (Order, trial doc. # 192; in response to Motion for Writ to Clarify Defense Counsel, trial doc. # 186). Even the 5th Circuit has contacted petitioner trying to ascertain such facts,

as this information is devoid on the trial court docket sheet. It is up to the Court to order default judgments, so as to remedy this problem.

Procedural law provides for automatic default judgments against those who do not appear (Fed. R. Civ. P. Rule 55). No objections were ever filed. Judge Schneider denied all pending motions on dismissal of the case (see Appendix B on pg. 18) on February 22, 2006. This was forty days after the motion was filed, meaning that any objection would have been due much sooner, not that anyone was representing said defendants.

ACTIONS

There is no lingering lack of clarity on causes of action. Despite the lies and red herrings of the judges and lawyers, everything has been made clear. The verbiage was the result of excessive motions practice by defense lawyers and the demand for an amended complaint with exhaustive time, place, and person details.

Slander was spelled out in precise detail (2nd Amended Complaint, trial doc. # 133, pg. 13-15). No other clarification was ever needed.

Libel was spelled out in precise detail (2nd Amended Complaint, trial doc. # 133, pg. 16-17). No other clarification was ever needed.

Fraud was pled with several examples (2nd Amended Complaint, trial doc. # 133, pg. 16-18) and with a laundry list of the policies and regulations used to defraud petitioner (trial doc. # 133, Appendix I). As pled, fraud occurred where the defendants extorted money from the petitioner with false promises of whistleblower protection, promising to terminate all of the offenders for the protection of plaintiff, and that the petitioner could not be terminated without violating policies.

Breach of fiduciary duty was pled in the 2nd Amended Complaint (trial doc. # 133, pg. 18-19). As explained, Gary

Blevins broke promises to the petitioner that he would not release stolen funds to his co-conspirators. Dennis Bennett and Gary Jackson conspired with Blevins to steal money and seize confidential bank records to which only the petitioner had a right to at the time. As such, the bank and the named individuals breached fiduciary duty with petitioner. No more clarification is needed.

Damages resulting from theft was pled in the 2nd Amended Complaint (trial doc. # 133, pg. 19). As explained, the defendants stole the petitioner's personal property in both the Tyler and Palestine facilities of Civil Air Patrol. This was explained in greater detail subsequently (trial doc. # 201, p. 6). Though lying lawyers have claimed this cause of action is vague, the defendants have the property records showing what property they stole from petitioner. The petitioner was also defrauded of tens of thousands of dollars through fraud that he gave to Civil Air Patrol on false pretenses, as explained in the fraud section.

Intentional infliction of emotional distress was pled with amazing clarity in the 2nd Amended Complaint (trial doc. # 133, pg. 20-21).

Negligence was pled in the 2nd Amended Complaint (trial doc. # 133, pg. 21). The foregoing causes of action explained the intentional torts. As pled, all officers and governors received letters from the petitioner informing them of the harm, and of the violations of policy or contract, and each was intentionally negligent in refusing to enforce the policies or restore the petitioner. Each refused to provide whistleblower protection as promised and each refused to terminate the offenders as promised.

Breach of contract was succinctly pled in the 2nd Amended Complaint (trial doc. # 133, pg. 21-22). As pled, the defendants defied the policies providing whistleblower protection, privileges and conditions of membership, terms of investigations, inspector general investigations, terminations and appeals, and MARB appeals. The 2nd Amended Complaint provides an exhaustive list of the breaches (trial

doc. # 133, Appendix I). Here are a few examples. The USAF mandates and promises whistleblower protection (SoW par. 7.1.2.1). CAP guarantees that assailants will be terminated (CAPR 35-3, Sect. B, par. 4b; CAPR 35-3, Sect. A, par. 1b). Complaints must be investigated (CAPR 35-3, Sec. C, par. 5). Termination victims must be told the charges against them (CAPR 35-3, Sect. C, par. 6b). The victim has the right to interview witnesses at his termination hearing (CAPR 35-3, Sec. D, Par. 9 [b][1] [version Dec 2002]). Not one of these contractual terms were complied with, resulting in the petitioner being victimized though fraud and theft. Though lying lawyers contend this is not very specific, each and every defendant has received detailed letters from the petitioner providing the details. For example, each knows that the inspector general contract was not followed, because the inspector general refused to submit to petitioner his findings, which were a confession of felony fraud, as reported by petitioner. Contrary to the lying judges' comments, no fact is left unclear to the defendants, and no one has to "fish a gold coin from a bucket of mud".

Conspiracy Against Rights as a cause of action (42 U.S.C. §§ 1985 and 1986) was explained in argument # 3 above.

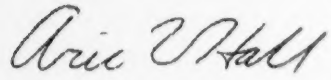
CONCLUSION

The simple fact remains that the judges did not want this matter to go to trial. Each had to lie in order to justify denying a trial. The magistrate's order was obeyed to the extent relevant to the case. Subsequently, every challenge raised against the Complaint was responded to in exhaustive detail. It is impossible to argue that all causes of action are unclear. Little could be left to the imagination. Slander, for example, could not have been more specific. Yet, the case was dismissed in its entirety.

PRAYER

It is the petitioner's prayer to the Court that the judgment for costs be reversed and this case be reversed and remanded for trial.

Respectfully,



The Honorable Maj. Aric W Hall, CAP, Commanding

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APPENDIX A – 5th Cir. Opinion:

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

FILED JUL 26, 2006

No. 06-40461
Summary Calendar

ARIC W HALL
Plaintiff-Appellant

v.

CIVIL AIR PATROL, INC., ET AL
Defendant-Appellees

Appeal from the United States District Court for
The Eastern District of Texas
(USDC No. 6:05-CV-193)

Before REAVLEY, BARKSDALE, and OWEN, Circuit Judges.

PER CURIAM:*

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* Pursuant to 5th Cir. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in

Plaintiff Aric Hall, pro se, appeals the district court's order dismissing his civil complaint with prejudice under Federal Rule of Civil Procedure 41(b) for non-compliance with an order to conform his complaint to the requirements of Federal Rule of Civil Procedure 8(a), and for failing to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6).[1]. We affirm for the following reasons:

1. Upon review of the record, and consideration of Hall's brief, we find no reversible error here. Hall's first amended complaint was twenty-five pages long and named 151 defendants, including President George W. Bush and Secretary of Defense Donald Rumsfeld. The magistrate judge explicitly instructed Hall to amend his complaint to include the "time, place or person details concerning the alleged reporting of violations," and to "set[] forth sufficient factual allegations and the legal basis upon which the Plaintiff believes that the United States Air Force, Department of Defense and individual defendants are liable to him for monetary damages."

Instead of clarifying his complaint, Hall filed his second amended complaint which was seventy-five pages long, contained nine appendices including a key with a list of acronyms, and named 177 defendants. The appendices contain hundreds of names, dates, and assertions without showing how the information bears upon the complaint. The second amended complaint was not better than its predecessor and failed to correct any of the deficiencies noted by the court. As the Seventh Circuit so aptly stated:

5th Cir. R. 47.5.4.

[1] We need not reach the Rule 12(b)(6) issue as the district court did not abuse its discretion in dismissing the complaint with prejudice for failure to comply with a court order and the Federal Rules of Civil Procedure.

> Rule 8(a) requires parties to make their pleadings straightforward, so that judges and adverse parties need not try to fish a gold coin from a bucket of mud. Federal judges have better things to do, and the substantial subsidy of litigation…should be targeted on those litigants who take the preliminary steps to assemble a comprehensible claim.

United States ex rel. Garst v. Lockheed-Martin Corp., 328 F.3d 374, 378 (7th Cir. 2003). Where, as here, a plaintiff has been given leave to file a second amended complaint that meets the requirements of Rule 8(a) and fails to do so, the case should be dismissed. The style and prolixity of Hall's pleadings would have made an orderly trial impossible. Hall's deliberate persistence in refusing to conform his pleadings to the requirements of Rule 8 justified dismissal of the complaint with prejudice.

2. Hall also argues that a default judgment should have been entered against the non-appearing defendants. While the district court never ruled directly on Hall's motion for default judgment or the government's motion for an extension of time for these defendants to answer, all of the defendants were named in the same defective pleading and were entitled to dismissal for Hall's deliberate persistence in refusing to conform his pleadings to the requirements of Rule 8.

3. Hall filed a motion for temporary injunction against the Civil Air Patrol that was denied by the district court. In his prayer for relief in this court, Hall requests that this court "use its own authority or force the district court to use common sense and rational discretion in granting the Motion for Injunction against" the Civil Air Patrol. Because this issue was not briefed by Hall, it is waived. *Matassarin v. Lynch*, 174 F.3d 549, 570 (5th Cir. 1999).

AFFIRMED.

APPENDIX B – DISTRICT COURT RULING

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ARIC HALL	§	
v.	§	CIVIL ACTION NO. 6:05cv193
CIVIL AIR PATROL, INC., ET AL.	§	

ORDER ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

The Report and Recommendation of the Magistrate Judge, which contains her findings, conclusions, and a recommendation for the disposition of this action, has been presented for consideration. The Report and Recommendations recommends that Defendant Civil Air Patrol, Inc.'s Motion to Dismiss (document #15), Defendant Gary Jackson's Motion to Dismiss (document #161), Defendant Henry Schlattner's Motion to Dismiss (document #195), Defendant Civil Air Patrol, Inc. and Dennis Bennett's Renewed Motion to Dismiss (document #197) and Defendant United States Air Force, the United States Department of Defense, and All Federal Defendants in Their Official Capacities' Motion to Dismiss (document #198) be granted and that the complaint be dismissed with prejudice. Plaintiff filed written objections to the Report and Recommendation on February 6, 2006. A response was filed by Defendants United States Air Force, the United States Department of Defense and all federal defendants in their official capacities

on February 19, 2006. Plaintiff then filed a reply on February 21, 2006.

Having made a *de novo* review of the objections filed by Plaintiff and the response and reply thereto, the Court finds that the findings, conclusions and recommendation of the Magistrate Judge are correct and the objections are without merit. Despite being given ample opportunity to amend his complaint, Plaintiff has not adequately stated claims upon which relief may be granted and he has not complied with the September 29, 2005 Order to submit an amended complaint with sufficient factual allegations and an explanation of the legal bases upon which is relying to seek relief. Plaintiff's pleadings are voluminous, but provide no more than conclusory allegations and accusations. At its core, Plaintiff's complaint is that his membership in the Civil Air Patrol was terminated because he allegedly complained about the activities of various other Civil Air Patrol members and alleged that those members were violating policies or committing crimes. He alleges that all of the defendants engaged in a conspiracy against him. Indeed, Plaintiff now asserts that the United states Magistrate Judge Judith Guthrie has joined the conspiracy against him by issuing a Report and Recommendation recommending dismissal of his claims. Plaintiff's pleadings are insufficient to state a claim and Plaintiff has not complied with the Order issued on September 29, 2005. Therefore, the findings and conclusions of the Magistrate Judge are hereby adopted as those of the Court.

In light of the foregoing, it is

ORDERED that Defendant Civil Air Patrol, Inc.'s Motion to Dismiss (document #15), Defendant Gary Jackson's Motion to Dismiss (document #161), Defendant Henry Schlattner's Motion to Dismiss (document #195), Defendant Civil Air Patrol, Inc. and Dennis Bennett's Renewed Motion to Dismiss (document #197) and Defendant United States Air Force, the United States Department of Defense, and All Federal Defendants in Their Official

Capacities' Motion to Dismiss (document #198) are **GRANTED** and the above-styled lawsuit is hereby **DISMISSED** with prejudice.

All motions not previously ruled on are **DENIED**.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ARIC HALL	§	Filed 2-22-06
v.	§	CIVIL ACTION NO. 6:05cv193
CIVIL AIR PATROL, INC., ET AL	§	

FINAL JUDGMENT

The above-entitled civil action has come before the Court for consideration, and decision having been duly rendered, it is hereby

ORDERED and **ADJUDGED** that the above-entitled action be **DISMISSED**.

APPENDIX C – REPORT & RECOMMENDATION

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ARIC HALL	§	FILED JAN. 23, 2006
Vs.	§	CIVIL ACTION NO. 6:05CV193
CIVIL AIR PATROL, INC., ET AL	§	

REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

Plaintiff, Aric Hall, proceeding *pro se*, filed the above-styled lawsuit on June 1, 2005. An Amended Complaint was filed on July 5, 2005, and a Second Amended complaint was filed on October 24, 2005. The matter was referred to the undersigned for all pretrial matters. There are several pending motions to dismiss. Defendant Civil Air Patrol, Inc., ("CAP") filed a Motion to Dismiss (document #15) on August 1, 2005. Defendant Gary Jackson filed a motion seeking to join in CAP's motion to dismiss (document #161) on November 15, 2005. Defendant Henry Schlattner filed a Motion to Dismiss (document #195) on December 2, 2005. Defendants Civil Air Patrol, Inc., and Dennis Bennett filed a Renewed Motion to Dismiss (document #197) on December 7, 2005. On the same date, Defendants United States Air Force, United States Department of Defense and All Federal Defendants in Their Official Capacities filed a Motion to Dismiss (document #198). For the reasons assigned below, the undersigned finds

that the motions to dismiss should be granted and the above-styled lawsuit should be dismissed with prejudice.

Background

Plaintiff is a former volunteer member of CAP. He alleges that his membership was terminated in retaliation for reporting violations of CAP policy. The original complaint lists more than one hundred and forty defendants. Plaintiff amended his complaint on July 5, 2005, adding five additional defendants, including President George W. Bush and Secretary of Defense Donald Rumsfeld. A motion for more definite statement was granted on September 29, 2005, and Plaintiff was ordered to file and serve on Defendants an Amended Complaint setting forth sufficient factual allegations and the legal basis upon which Plaintiff believes that the United States Air Force, Department of Defense and individual defendants are liable to him for monetary damages. Plaintiff filed a lengthy Second Amended Complaint on October 24, 2005, adding another twenty-five defendants to his lawsuit.

In his Second Amended Complaint, Plaintiff alleges that he reported violations of CAP policy and criminal law "to the persons required by CAP policy and the CAP-USAF Statement of Work." He asserts that this reports resulted in "cover-up investigations" and that he was "terminated and otherwise retaliated against for doing as required." He complains that CAP has not provided a justification for the termination of his membership. According to Plaintiff, "[e]ach defendant engaged in complex and organized crimes, torts, and breaches of implied contract against plaintiff, culminating in the termination and public defamation of plaintiff." Plaintiff argues that "each defendant" had a duty to act on his reports of violations, but failed to do so. With regard to jurisdiction, Plaintiff alleges that there is a federal question jurisdiction because the United States Air Force

("USAF"), CAP and other individuals conspired to violate his civil rights.

Plaintiff alleges that he was retaliated against because he contacted a senator, state and federal regulatory agencies and the police, and he threatened to contact other congressmen on September 23, 2002. He does not explain what form of retaliation allegedly occurred. He submits that he first forwarded complaints to USAF personnel in October 2002. Plaintiff complains that he sent letters to various USAF officials regarding the alleged "crimes," and received some letters back stating that the USAF would not involve itself in CAP matters. Plaintiff further alleges that CAP changed its policies concerning internal investigations to further cover-up the activities complained of by Plaintiff. Plaintiff submits that the defendants conspired to violate his constitutional rights of freedom of speech, right to petition the government and freedom of association. It is Plaintiff's belief that "each defendant may have contributed to the actions against plaintiff, or at least interfered with the restoration of plaintiff in some way."

Plaintiff additionally asserts the following claims: slander, libel, fraud and misrepresentation, breach of fiduciary duty, theft and conversion of personal property, interference with "prospective advantage," malicious prosecution, intentional infliction of emotional distress, negligence, and breach of contract. Plaintiff alleges that he was slandered on various occasions when certain individual defendants either stated or implied that Plaintiff had threatened deadly force against someone, that he is a habitual complainer, that he was unfit to lead and that he was trying to destroy CAP. He submits that libelous statements were published in CAP newsletters concerning his termination. Plaintiff argues that CAP and its officers committed fraud by encouraging him to spend his time and money on CAP and then failing to uphold CAP policies or provide him with whistleblower protection. Plaintiff's breach of fiduciary duty claim is directed at Arp State Bank, Blevins, Bennett,

Jackson, Tom Todd, Mundt, Warren and CAP. Without explanation, Plaintiff alleges that "[d]efendants are in possession of stolen property from plaintiff." He does not identify the personal property. Plaintiff complains that he has lost employment and personal references among CAP personnel due to the libelous and defamatory statements made about him. Plaintiff argues that his termination from CAP amounted to malicious prosecution. According to Plaintiff, the efforts to terminate his membership and to cover-up violations of CAP policy caused an intentional infliction of emotional distress and each defendant in a position of responsibility was negligent for not taking action to address his complaints. Finally, Plaintiff alleges that CAP breached an implied contract to provide whistleblower protections and conduct a proper investigation. Plaintiff seeks equitable relief, compensatory damages and punitive damages.

CAP and Dennis Bennett seek dismissal of the complaint because Plaintiff cannot state any set of facts that would allow relief under the causes of action asserted in the Second Amended Complaint. Defendants argue that Plaintiff has not submitted sufficient factual allegations to support a cause of action. Defendants USAF, United States Department of Defense, and the individual federal defendants assert that the complaint should be dismissed with prejudice because Plaintiff did not comply with the September 29, 2005 Order to submit an amended complaint with sufficient factual allegations and an explanation of the legal bases upon which he is relying to seek relief. Defendants further argue that the complaint is deficient pursuant to Fed.R.Civ.P. 8(a).

Discussion and Analysis

A pro se litigant's pleadings are to be liberally construed and his complaint should only be dismissed for failure to state a claim if it appears beyond doubt that he can prove no set of facts in support of his claim which would

entitle him to relief. *Barksdale v. King*, 699 F.2d 744, 746 (5th Cir. 1983). All well-pleaded facts must be accepted as true for purposes of a motion to dismiss pursuant to Fed.R.Civ.P. 12(b)(6), and well-pleaded facts are to be viewed in the light most favorable to plaintiff. Calhoun v. Hargrove, 312 F.3d 730, 733 (5th Cir. 2002) (citing McCartney v. First City Bank, 970 F.2d 45, 47 (5th Cir. 2992)).

Following the filing of Plaintiff's First Amended Complaint, Defendants USAF and United States Department of Defense filed a motion for more definite statement asserting that the complaint was ambiguous and did not contain sufficient information to allow a responsive pleading to be framed. More specifically, the Defendants argued that Plaintiff failed to adequately plead his theories of relief and did not identify each defendant's participation in causing his alleged injuries. The First Amended complaint did not provide sufficient factual information concerning Plaintiff's claims or clearly set forth Plaintiff's legal basis for seeking relief in this case. The undersigned granted the motion and delayed consideration of CAP's first motion to dismiss until Plaintiff had been given an opportunity to correct the deficiencies in his complaint.

In this case, Plaintiff has been given ample opportunity to amend his complaint. Rather than clarifying his claims in his Second Amended Complaint, Plaintiff used this pleading to add even more defendants without providing specific facts stating a cause of action against any of them. Though lengthy, Plaintiff's Second Amended Complaint contains very little facts. The pleading is rife with conclusions and accusations, but does not offer much factual information. The basic facts in the complaint are that Plaintiff was a member of CAP, Plaintiff complained about the activities of various other CAP members and alleged that they were violating CAP policy or committing crimes, and Plaintiff feels that his membership from CAP was unjustly terminated. Beyond that, Plaintiff alleges that there was a

general conspiracy among all of the defendants to violate his constitutional rights of freedom of speech, right to petition the government and freedom of association and that "each defendant may have contributed to the actions against plaintiff, or at least interfered with the restoration of plaintiff in some way." He states that he is asserting claims such as slander, libel, malicious prosecution, fraud, breach of contract, theft and conversion of personal property, interference with "prospective advantage," intentional infliction of emotional distress, breach of fiduciary duty and negligence. Even taking Plaintiff's allegations as true, however, he does not plead facts to support the elements of these theories of liability or explain each individual defendant's participation. He does not allege facts showing that a contract or fiduciary duty existed to be breached or that a theft or conversion of property occurred. Likewise, he does not allege facts stating a claim of malicious prosecution, fraud, slander or libel. There are no well-pleaded facts showing an intentional infliction of emotional distress or negligence. It is also not clear what Plaintiff means by "interference with prospective advantage."

Plaintiff does not clarify his claims in his responses to the motions to dismiss. Rather, he asserts that the Defendants should know the claims against them because they have more information than he does. He further states that he "is not going to bet very specific when witnesses can be tampered with and documents can succumb to the evidence tampering device (shredder)." What is clear from Plaintiff's pleadings is that he endeavored to sue every person that he came into contact with in CAP, every person that he submitted a grievance to, and everyone that he believes should have known about his complaints and should have done something for him.

In this case, Plaintiff has not adequately stated claims upon which relief may be granted and he has not complied with the September 29, 2005 Order to submit an amended complaint with sufficient factual allegations and an

explanation of the legal bases upon which he is relying to seek relief. For these reasons, the undersigned finds that the Motions to Dismiss should be granted and the complaint should be dismissed with prejudice pursuant to Fed.R.Civ.P. 12(b)(6) and Fed.R.Civ.P. 41(b).

Recommendation

It is recommended that Defendant Civil Air Patrol, Inc.'s Motion to Dismiss (document #15), Defendant Gary Jackson's Motion to Dismiss (document #161), Defendant Henry Schlattner's Motion to Dismiss (documents #195), Defendant Civil Air Patrol, Inc. and Dennis Bennett's Renewed Motion to Dismiss (document #197) and Defendant United States Air Force, the United States Department of Defense, and All Federal Defendants in Their Official Capacities' Motion to Dismiss (document #198) be granted and that the complaint be dismissed with prejudice.

Within ten (10) days after receipt of the magistrate judge's report, any party may serve and file written objections to the findings and recommendations of the magistrate judge.

A party's failure to file written objections to the findings, conclusions and recommendations contained in this Report within ten days after service shall bar that party from *de novo* review by the district judge of those findings, conclusions and recommendations and, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Assn.*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

So ORDERED and SIGNED this 23 day of January, 2006.

// signed //
JUDITH K. GUTHRIE
UNITED STATES MAGISTRATE JUDGE

APPENDIX D – VERBATIM REFERNCES

U.S.C. Const. Amend. I – Freedom of Petition

U.S.C. Const. Amend. VII – Trial by Jury in Civil Cases

U.S.C. § 9447 – The Board of Governors is the governing body of Civil Air Patrol. It may amend the CAP constitution and bylaws. Four members are appointed by the Secretary of the Air Force, and three are appointed jointly by the Secretary and the president of CAP.

10 U.S.C. § 9448 – The Secretary of the Air Force prescribes regulations to administer this chapter, and that is subject to approval of the Secretary of Defense

18 U.S.C. § 4 – Misprison of Felony

18 U.S.C. § 241 – Criminal offense: Conspiracy Against Rights

18 U.S.C. § 245 (b)(1)(B&E) – Criminal offense: Interference with Federally Protected Activities

28 U.S.C. § 1254 – Appellate cases may be reviewed by the Supreme Court, by certiorari

28 U.S.C. § 1331 – District courts have original jurisdiction over all cases arising under the laws or Constitution of the United States

28 U.S.C. § 1343(a)(1-2) – District courts have original jurisdiction over cases to remedy civil rights violations or harm resulting from a § 1985 Conspiracy Against Rights

28 U.S.C. § 1349 – District courts have jurisdiction regarding corporations established by Congress, provided that the U. S. owns a majority of its capital stock

28 U.S.C. § 1361 – District courts have the power of mandamus, to compel government actors to fulfill their responsibilities

36 U.S.C. § 40303(a) – The rights and privileges of membership in CAP are established in the CAP constitution and bylaws.

36 U.S.C. § 40303(b) – The Board of Governors is the governing body of CAP.

42 U.S.C. §§ 1985 and 1986 – Civil action: Conspiracy Against Rights

AFI 10-2701, par. 1.4.4 – The Air Force's CAP-USAF commander approves or disapproves of every corporate CAP policy

AFI 10-2701, par. 1.9.4 – The Air Force's CAP-USAF commander approves or disapproves of every corporate CAP policy

AFI 10-2701, Attch #1, A1.2.6 – The administration, activities, and business affairs of CAP are controlled by its constitution, bylaws, and regulations. The Air Force may regulate corporate activities to the extent determined by Sec/AF.

AFI 10-2702, par. 2.5 – The Board of Governors, and the Air Force actors thereon, have ultimate authority for the Inspector General system.

AFI 10-2702, par. 2.6 – The Board of Governors, and the Air Force actors thereon, have final authority over the Membership Action Review Board (MARB) and will oversee MARB cases.

AFI 10-2702, par. 4 – Prescribes the appointment of the Air Force members of the Board of Governors, with four being appointed solely by the Secretary of the Air Force and three appointed jointly by the Secretary and the president of CAP.

AFPD 10-27, par. 9.6 – The Air Force accomplishes its funding, oversight, and control of CAP, and the enforcement of the CAP-USAF Statement of Work, via its CAP-USAF commander.

AFPD 10-27, par. 9.8 – The Board of Governors, including the Air Force actors thereon, is the governing body of CAP.

SoW par. 2.3.1.1 – The Air Force and its CAP-USAF commander have the authority to suspend appropriated funds and mission authorizations to CAP in cases of fraud or crime.

SoW par. 5.4.3 – If CAP has inadequate control of its funds or resources, the Air Force may suspend appropriated funds or resources to CAP.

SoW par. 7.1 – The Board of Governors, and its Air Force actors, shall have final authority over the Inspector General system.

SoW par. 7.1.2 – CAP must maintain a complaints and whistleblower program similar to that of the Air Force.

SoW par. 7.1.2.1 – CAP must provide whistleblower protections, similar to those required in the Air Force.

SoW par. 11.2 – Air Force approval or disapproval of the policies, programs, or activities of CAP shall be accomplished through the Air Force's CAP-USAF commander. The Secretary of the Air Force may delegate his authority in providing Air Force assistance to CAP.

CAPR 35-3, Sect. A, par. 1b – CAP members must comply with the CAP constitution, bylaws, and regulations.

CAPR 35-3, Sect. B, par. 4b – Members who fail to meet the standards of behavior prescribed in par. 1 shall be terminated.

CAPR 35-3, Sect. C, par. 5 – This policy allows for the equivalent to the military's Unlawful Command Influence, whereby a superior may order a subordinate to order the termination of another, allowing the superior to be the approving authority for the termination he ordered in the first place. It

offsets any pretension of impartiality or fact-finding in the termination appellate process.

CAPR 35-3, Sect. C, par. 6b – Superiors ordering a termination must provide written notice, stating the facts.

CAPR 35-3 [Dec. 2002 ver.], Sect. D, par. 9(b)(1) – Victim has the right to interview any witnesses at his termination appeal hearing. The catch is that the victim has no power of subpoena.

CAPR 123-2 [Sep. 1999 ver.], par. 4d – This policy, approved by the Air Force, prohibits CAP members from contacting government, specifically the government oversight body that is the U. S. Air Force

CAPR 123-2 [May 2003 ver.], par. 6e – This new policy, approved by the Air Force, prohibits CAP members from contacting government, specifically the Air Force actors on the Board of Governors.